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Blurred promises: Ethical consequences of fine print policies in insurance

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ABSTRACT

The insurance industry's practice of producing comprehensive insurance policies can have unforeseen and negative ethical consequences. Insurance policies express promises from the insurer to the insured, to the effect that the insurer should be trusted to appropriately assist the insured in case of accident. The relation is seriously undermined when the content of the promise is blurred, containing clauses and condition which are ambiguous or hidden in fine print. This paper contains an investigation of (1) the sources of the fine print policy practice, (2) its immediate effects on the degree to which the policies are understandable to the insured, (3) the ethical consequences that can follow from blurring the true content of the insurer's promise to the insured and (4) the measures insurers can take in order to develop a more constructive ethical relationship with its customers.

BLURRED PROMISES:

ETHICAL CONSEQUENCES OF FINE PRINT POLICIES IN INSURANCE

Introduction

In many countries, the relation between the insurance industry and its customers is strained. The insurance companies suffer considerable losses due to customer dishonesty and fraud while customers complain about a gap between the expectations created by the insurance companies (represented primarily by their salespersons), and the actual benefits they receive from being insured. Insurance conditions are presented in complex and legalistic terms. Significant limitations to what the customer can receive coverage for are hidden in fine print. The customers respond with frustration when they are told that the insurance covers less than they expected, and as a consequence, the threshold for making false claims to the insurance companies is in many cases lowered.

The common practice of expressing insurance condition in fine print terms is a characteristic of the legal dimension of insurance. The point of departure in this paper is that more attention to the ethical dimension of the insurer – insured relation is called for. More specifically it is important to explore how the dominance of legalistic language in insurance can lead to negative ethical consequences of the following three kinds:

- A. Erosion of moral opportunity
- B. Loophole morality
- C. Moral neutralization

Closer attention to these unfortunate ethical effects of the legalistic language within insurance is necessary in order to release tensions between the insurer and the insured. The discussion of A builds on Stone's (2002) analysis of the moral opportunity dimension of insurance, while B is discussed by developing on Pogge's (1992) concept of loopholes in moralities. Finally, ideas from moral psychology (Sykes and Matza, 1957; Ribeaud and Eisner, 2010) are applied

to suggest, under heading C, how encounters with fine print policies can lead customers to adopt moral neutralization techniques.

The paper presents a four step analysis of why and how fine print policies and legalistic language can negatively affect the relation between insurer and insured. It will also suggest how the relation can be set on a more constructive path. The discussion will address the following four themes and questions:

1. Sources	2. Immediate consequences	3. Ethical consequences	4. Remedies
Why have insurance policies become complex fine print documents?	How can fine print policies affect the insured's understanding of the insurer's promise?	How can blurred promises affect the ethical relation between insurer and insured?	What can the insurance industry do to avoid the negative ethical consequences of fine print policies?

Elsewhere in this volume, Brinkmann and Lesch claim that “(t)he core proposition in the insurance exchange is defined by the firm as the promise of indemnification at a certain level upon notice of a covered risk within a timeframe defined by the parties”. The notion of promising will also be central in the present discussion, in a consideration of how legalistic language in insurance tends to blur the content of the insurer's promise to the insured.

The backdrop to the study is a general research question posed by Brinkmann (2005, p. 192): “Do the insurance companies get the customers they deserve, and vice versa?” The conduct and attitudes of one party is likely to have significant effects on that of the other. A conceptual clarification of the issues addressed here can contribute to a more constructive dialogue between the insurer and the insured. It can create a better understanding of how the dynamics of presenting insurance conditions in complex legalistic terms is likely to blur the content of the promise made by the insurer to the insured. Blurred promises can affect the relation between promisor and promisee in an ethically negative manner, and should thus be avoided.

1. Why have insurance policies become complex fine print documents?

Challenges arising from complex legalistic language in insurance are related to more general problems connected to fine print and specialized jargon in other parts of society. Statements made by lawyers and other academics and experts are often so laden with specialized jargon that the ordinary person is excluded from understanding them and participating in genuine dialogue. Only people belonging to the same professional circle can truly grasp the content of the utterances. In some cases, the complexity of the issue at hand demands a correspondingly complex set of concepts to be appropriately expressed and discussed. In other cases, the academic jargon takes the upper hand even if the phenomena under scrutiny can be described in simpler and more publicly accessible terms.

Fine print policies in insurance are situated in a particular linguistic tradition. In his work on how to draft and interpret insurance policies, Wollner raises critical questions to that tradition. He provides a range of examples where no point is served by the typically ambiguous fine print nature of the expressions. Here is one of his illustrations of how insurance policies should not be formulated (Wollner, 2010, p. 10):

REINSTATEMENT: If any renewal premium be not paid within the time granted the Insured for payment, a subsequent acceptance of premium by the Company or by any agent duly authorized by the Company to accept such premium, without requiring in connection therewith an application for reinstatement by the Company, shall reinstate the policy; provided, however, that if the Company or such agent shall promptly require an application for reinstatement and issue a conditional voucher for the premium tendered, the policy will be reinstated upon approval of such application or, lacking such approval, upon the 45th day (30th day in New Mexico) following the date of such conditional voucher unless the Company has previously notified the Insured in writing of its disapproval of such application.

According to Wollner, “this 123-word reinstatement provision is not just too long. The clause contains superfluous information, arranges its relative and subordinate clauses poorly (they intrude between the subjects and their verbs), and presents ideas in a way that is not logically organized”. He then offers an alternative formulation:

If the Company or its duly authorized agent accepts a renewal premium that is not paid within the time granted the Insured for payment and the Company does not require an application for reinstatement, the policy will be reinstated. However, if the Company or its duly authorized agent accepts a renewal premium and issues a conditional receipt

for the premium, the policy will be reinstated only when the Company approves the application. (If the Company neither approves nor disapproves the application in writing, the policy will be reinstated on the 45th day (30th day in New Mexico) following receipt of the premium.)

Here, then, the insurer should opt for the simpler and more understandable second version. There is no purpose in retaining the more complex first version. In this case, the document can be made more readable to the insured without compromising any other issue at stake. Wollner offers a range of such illustrations where policies can be made more readable, without sacrificing rigor, precision or other important concerns.

Even if the linguistic advice offered by Wollner were taken into account, elements of fine print would remain. “Protection” is a key word when understanding the rationale for drafting very detailed insurance conditions. Fine print can be seen as a key component in the protection of legitimate stakeholder interests. It is legitimate for the insurer to be concerned with:

1. protection of insurer profits,
2. protection of the honest customer, and
3. protection of the insurance mechanism.

An insurance company is not expected to be a non-profit organization. It can thus have legitimate reasons to take steps that will secure its ability to earn money. Their customers should also see measures to specify conditions in a positive light. If some customers exploit loopholes in a less detailed document, it can eventually lead to increased premiums to for all members of the insured group. Finally, fine print can sometimes be use to define the risks that are and should be uninsurable, and should instead be covered by other methods or policies.

Embedded in the insurance industry’s protection strategy is a response to the dangers of *moral hazard*, a well known and widely discussed phenomenon within the realm of insurance (Arrow, 1971, Cummins and Tennyson, 1996, Heimer, 1985, Ludovsky and Young, 2010, Parsons, 2003, Takao and Okura 2001). In the classical sense, moral hazard in insurance refers to “(t)he possibility that the policyholder, knowing that he is insured, will change his behavior in a way that produces undesirable outcomes: in particular, he may become more careless” (Parsons, 2003, p. 448). A person insulated from risk, either through insurance or

other factors, may engage in more risk taking than he would have done if he had been fully exposed to risk. He is less careful, since the cost of any mishaps for the most part will be taken care of by other parties. Most insurance companies are keenly aware of the dangers of moral hazard, and are therefore wary of offering their customers conditions where they only have to take an insignificant part of the burden in case of an accident.

Any criticism of the tendency for insurance documents to be dense and laden with legalistic fine print needs to take into account the legitimate reasons a company may have for articulating the conditions in detail. Such countermeasures can serve as protection against a derailment of the mechanism of commercial insurance.

Does customer dishonesty cause insurers to construct complex fine print policies in order to protect themselves, their honest customers and the institution of insurance? Or does the complexity of the policies lead customers to engage in self-interested actions where they provide false reports about the events they have encountered? There is a “chicken-and-egg” aspect to this issue. The aim here is not to settle this time issue. The following discussion does not rely on a definite answer to what came first of the fine print practice of insurance companies and the various egoistical customer practices.

2. How can fine print policies affect the insured’s understanding of the insurer’s promise?

Insurance contains a promise of indemnification from the insurer to the insured. A promise is an expression of a commitment to a particular course of action, an intention to respond to a certain kind of event in a particular way. It narrows down the options available to the promisor in relation to the promisee, should those specified events occur. When promises are expressed in fine print documents, the actual content of the promise is blurred, at least in the eyes of a non-expert.

At the core of the ethical tension between insurance customers and providers is the frustration many customers voice about the gap between their expectations and what insurance actually

covers. Their interpretation of the insurer's promise at the time of purchasing the insurance is revealed to be misguided or wrong. Harald Sverdrup, director of The Norwegian Financial Services Complaints Board in Norway (interview with nrk.no, 13.10.10), has drawn the general conclusions that

(t)here is a considerable gap between what people believe they will receive insurance payment for, and the reality. People believe they are better covered than they actually are.

Who should be held responsible when a gap of this kind occurs? It may be that the customers should make more of an effort to become informed about the content of the insurance policy before they sign up. It may also be their responsibility to become more "financially literate" than they currently are. On the other hand, it may be that the companies oversell their products, glossing over the limitations and details of the conditions they offer.

Due to the complexity of the products, customers of insurance products are to a high degree at the mercy of insurance salesperson's ethical behavior (Hoffman, et al, 1991). In professional situations, these salespersons are more likely to actively engage in unethical behavior than they are in private (Eastman, Eastman and Eastman, 1996). There may typically be a conflict of interest between the salesperson and the customer, in that the former will profit from persuading the latter to buy a non-optimal product.

A number of complaint cases can illustrate a situation where a customer has higher expectations to insurance than is actually met. The following three examples are short descriptions based on actual cases:

The customer buys a Full Value Insurance on a house, and expects it to cover the expenses of building a new one of the same value. After the fire, she only receives half the sum estimated by independent experts to be needed to build a house of similar value. In fine print, the insurance document states that any special feature of the house, potentially expensive to recreate, must be documented and defined at the time of signing the insurance agreement.

A newly divorced father takes his daughter on a holiday, and expects the most expensive Family Travel Insurance to cover both of them. It does not, since the

daughter now lives with the mother. The fine print states that family is defined in terms of people living together, and child custody.

A business manager gets what is considered to be the best travel insurance available, and expects the insurance to come into effect and cover expenses when he is unable to travel, due to circumstances beyond his control. One day he takes a taxi towards the airport, and is delayed due to a big accident on the road. There is a full stop in traffic, and he misses his flight. The insurance does not live up to his expectations, however. In fine print, it states that only losses caused by delays to public transport, and not to taxis or private cars, are covered. If the business manager had taken a bus to the airport, he would have been delayed by the same road accident, and had his expenses covered.

The common feature in all these cases is that the insured has misinterpreted the promise from insurer, giving rise to customer discontent.

Classical moral philosophy offers insights into the phenomenon of promising. According to Hume (1978 (1740), p. 519), “promises are human inventions founded on the necessities and interests of society.” He believed that human beings were selfish and not prone to helping people outside the closest circle of friends and relatives. In order to create a foundation for cooperative and coordinated behaviour in a society, it would not be sufficient for them to declare a mere intention to reciprocate and help others. Hume’s welfarist account of promising, then, presents it as a necessary means to secure a real prospect of reciprocation. He considers the virtue of keeping promises to be an artificial virtue, a socially beneficial construction which compensates for the limitations in the natural virtues of human beings.

Recent philosophical discussions of promising have also included considerations from speech act theory. A promise is a speech act with a particular illocutionary point, or characteristic. The illocutionary point of a promise is to commit oneself to future course of action. There is a sincerity condition tied to the act of promising: An intention to keep the promise.

In order to identify how a person buying insurance can come to misinterpret the promise involved in the transaction, it can be helpful to identify the concrete elements of a promise. According to Scanlon (1998, pp. 306-307, bracketed numerals added here), when I make a promise to another person (you) to show up at a certain time in a certain place:

(1)) I claim to have a certain intention

(2) I make this claim with the clear aim of getting you to believe that I have this intention

(3) I do this in circumstances in which it is clear that if you do believe it then the truth of this belief will matter to you

(4) I indicate to you that I believe and take seriously the fact that, once I have declared this intention under the circumstances, and have reason to believe that you are convinced by it, it would be wrong of me not to show up.

The moral core of promising, then, is that the promisor induces an expectation in the promisee to the effect that he has an intention to act in a particular way under some specified circumstance. Breaking the promise would be morally wrong, because we have a duty not to harm other people by inducing false expectations in them. In the case of insurance, there is also a legal dimension to the promise. Both parts sign an agreement which is legally binding for both.

A foundation for this position can be found both in the Humean, welfarist tradition and in a deontological tradition, where the duty to keep a promise is situated in notions of autonomy and respect, and not in social utility. Both traditions can be open to discussion about exceptions: Under which circumstances can it be morally justified to break a promise?

The immediate problem posed by complex insurance policies is that they blur the content of the promise made by the insurer to the insured. From the customer's perspective it is important to be reasonably well insured against mishaps. Insurance should enable him to engage in reasonably risky activities and processes, with the knowledge that the insurance will cover a significant part of his expenses, should things go wrong. The insured may misunderstand (1) the specific conditions under which the insurance comes into play and (2) the extent to which the insurer will pay up under those conditions. Fine print insurance policies can make it difficult for the customer to determine *ex ante* whether he in fact is:

- underinsured,
- reasonably insured, or
- overinsured.

The examples above illustrated how insurance customers can come to learn *ex post* that they are not as well insured as they originally believed. It is only in the light of an actual occurrence of loss that this fact is revealed. The assumption of being reasonably well insured is proven to be wrong.

Overinsurance is at issue in situations where a potential customer may already be insured against a particular kind of loss. The customer is offered travel insurance, and would like to know whether the insurance offered through his credit card makes further insurance superfluous. Fine print policies may not state clearly enough the conditions at stake, and may make two sets of insurance conditions hard to compare or evaluate.

3. How can blurred promises affect the ethical relation between insurer and insured?

Fine print insurance policies can camouflage the true content of the promise from the insurer to the insured, and thus leave the latter in uncertainty about the support he can expect from the former. The insurer has made a legally binding promise to provide assistance to the insured in case of an accident or mishap, but what is the true content of that promise? In this section we shall look into three kinds of unforeseen and regrettable ethical consequences that can occur as a result of the practice of blurring the promise to the insured. In turn we will discuss how the insurer – insured relation can be characterized by:

- A. Erosion of Moral Opportunity
- B. Loophole Morality
- C. Moral Neutralization

In order to create a more constructive relationship between the suppliers and consumers of insurance products, steps should be taken to avoid these three developments. The conceptual clarification we offer can help to identify the phenomena and find countermeasures to suppress them.

A. Erosion of moral opportunity

We have seen that Hume considers promising to be an artificial virtue, a socially beneficial arrangement which compensates for the limitations to our natural sympathy and solidarity with others. Stone's account of insurance is also based on the idea that it has come into place to serve social purposes. From her perspective, insurance is seen as an instrument with which a collective can share the burdens of possible bad outcomes. The choice of participating in insurance can be seen as a moral choice, since it involves entering into a social institution where the purpose is to provide for one another in the event of accident and misfortune. Insurance provides us with what Stone (2002, p. 53) has called "moral opportunity", the opportunity to cooperate with and help others: "Insurance is a form of mutual aid and collective responsibility. To participate in a risk-pooling scheme is to agree to tax yourself not only for your own benefit should you incur a loss, but also the benefit of others who might suffer from a loss when you are not" (Stone, 2002, p. 53).

To what extent are the actions of suppliers and customers of insurance products grounded in moral motives, in the concern for the well being of others? The insurance industry is commercially driven, and the customers' prime motivation for buying its products is likely to be self-interest. In the case of theft, accident or injury they want to be financially covered through insurance, so as to lessen the burden on themselves and their families. Each individual would not be able to do so unless he belonged to a collective consisting of individuals with similar interests and intentions. This communal foundation itself does not seem to be enough to warrant Stone's conclusion that insurance "call forth moral motives – motives of charity, compassion, civic responsibility, and justice" (Stone, 2002, p. 53).

Even though she is highlighting the communal aspect of insurance, Stone also acknowledges the element of contest in the disputes over claims payments. It is a phenomenon she links to the fine print aspect discussed in this paper: "Insurance policies are virtually the national metaphor for fine-print specificity and trick exclusions in contractual relationships" (Stone, p. 67). The heated contests between the insurer and the insured over fine print issues does not, from Stone's perspective, diminish the moral opportunity dimension of insurance.

Stone believes that insurance has been given an undeservedly bad name within the paradigm of economics, an academic discipline she criticizes for reducing human motivation and

behaviour to be essentially rational, self-interest-maximizing. The main focus of attention within this paradigm has been moral hazard, and not the more constructive perspective of moral opportunity. Stone's concerns are similar to the ones later expressed by Ghoshal in relation to the effects of management theories based on the *Homo Economicus* assumption, the view that human beings primarily seek to maximize their self-interest (Ghoshal, 2005). Within the paradigm of economics, insurance is seen as an institution which inevitably creates incentives for egoistical and anti-social activities. A rational person, who is insured from having to pick up the bill for effects of his own mistakes, will be tempted to act immorally, by taking graver chances and bigger risks than he otherwise would have done.

From the alternative perspective of political science the interpretation of the social effects of insurance are different, according to Stone. It highlights the communal and moral aspect of engaging in the activity of insurance (Stone, 2002, p. 74):

Insurance is a social institution that helps define norms and values in political culture, and ultimately shapes how citizens think about issues of membership, community, responsibility, and moral obligation. Insurance influences how people behave, not so much by dangling incentives in front of them one by one, but rather by offering arenas for collective moral deliberation and political action.

According to Stone, then, insurance customers should not be seen as exemplars of the species of *Homo Economicus*. Instead, "insurance teaches citizens that they have an obligation to help others and the right to receive aid when they suffer certain kinds of losses" (Stone, 2002, p. 74).

Stone's ambition is to take reflections on insurance beyond moral hazard and the paradigm of economics. An alternative approach can be to assume that the conceptions of moral hazard and moral opportunity supplement each other, in that they draw attention to two different aspects of insurance. A both/and approach is called for, and not the either/or one suggested by Stone, since the two perspectives focus on different moral aspects of insurance. Neither needs to be given hegemony over the other. Economics points to the danger of overprotecting people through insurance, providing them with incentives towards hazardous behaviour, while political science as Stone construes it offers insights concerning the cooperative dimension of insurance. It is likely that neglect of the latter dimension has contributed significantly to the ethical tension between insurers and insured. Stone thus brings attention to a dimension of

insurance which should not be overlooked, but it is important to do so without turning one's back to the equally significant economical dimension of insurance.

Blurred promises from the insurer to the insured, is likely to weaken the moral opportunity dimension in the relation between the two. As we have seen, one of the main causes within insurance for the development of fine print policies has been a preoccupation with moral hazard. It is a development that has led to a neglect of the moral opportunity dimension, of insurance's origin as a scheme in which people can share the burdens of possible bad outcomes. Attention to this aspect of the insurer – insured relation has the potential to create a foundation for more precise and understandable promises.

B. Loopholes in Moralities

Insurance is a social arrangement, where the participants decide upon a set of conditions to govern their relation. The concrete setup and content of such an arrangement have concrete effects on how people think and act. They create incentives, some of which are unfortunate, judged by the arrangement's own standards. To what extent can blurred promises create such counterproductive incentives in insurance? This question can be explored by applying Pogge's (1992) discussion of loopholes in moralities. His point of departure is that moralities are conduct guiding structures that can be judged in terms of their success in providing concrete incentives for the kind of conduct they value. We can evaluate a morality by asking (Pogge, 1992, p.80):

Have we organized our moral commitments in a way that reflects, and helps effectively to achieve, what by their own lights matter?

A similar question can be posed to the institution of insurance. Is it organized in a way that reflects and helps effectively to achieve, what is important for insurers and insured alike? We can return to that question after a presentation of Pogge's original concern about loopholes in moralities.

Incentives and social effects are taken into account in the design of traffic rules, tax laws, pedagogical frameworks for schools, and in other legislative decision making. A government

can change the dynamics of the investment climate in a society by restructuring taxation. Lower taxes on investment gains may enhance the eagerness to make further investments (Pogge, 1992, p. 79). One likely consequence of requiring single young adults to enlist in military service is that more people get married at an early age (Pogge, 1992, p. 82). The legislators need to think through the probable social effects of their alternatives, before they decide upon a course of action. A code that morally requires single young adults to volunteer for a period in the military provides a *compliance incentive* in the direction of enlistment, and a *reward incentive* to get married early. A person, whose strongest motivation is to be committed to the code, will put his preference for a life where he does not serve in the military aside, and enlist. Another person may instead opt to get married, and can correctly claim that his decision does not violate the code requirements.

A domestic example of what Pogge is concerned with is a situation where a parent wants to encourage a change in the eating habits of a child. Consider a child with the bad habit of spilling soup on the tablecloth. The parent sets out to encourage the child to be more careful while eating soup, and decides that from now on the child will get a reduction in pocket money, equivalent to one monetary unit per spot of soup on the tablecloth at the end of the meal. The number of spots, then, will directly affect the sum of pocket money received at the end of the week. The child now has a reason to keep the number of soup spots to a minimum.

An arrangement like this can backfire on the parent. Towards the end of the meal, the child can observe the number of spots on the tablecloth, and decide to pour more soup on to it, thus producing one large spot of soup, rather than a high number of small ones. The amount of pocket money will only be reduced by one monetary unit. In this case, the plan to reduce spilling instead increased it, by giving the child incentives that were counterproductive by the arrangement's own light. The parent has reasons to revise the conditions for connecting soup spilling with pocket money, since the objective of reducing soup spills spilling can be better fulfilled by replacing the arrangement with a different one.

A loophole in a conduct guiding structure or code encourages or allows conduct that is regrettable from its own perspective. An arrangement to reduce soup spilling contains a loophole when it guides an adherent to spill more, not less, soup onto the tablecloth. It can be criticized for being incoherent, in that it is put in place to discourage conduct that it instead turns out to produce more of.

Blurred promises in insurance can create similar loopholes. Fine print policies are put in place to discourage moral hazard and to guard against dishonest customer activity. By constantly identifying and repairing loopholes in the drafting of insurance policies, the insurer encourages a mentality of thinking that anything the conditions are silent about, can be considered to be acceptable. The practice can create an unfortunate incentive to look for and exploit loopholes. If you experience that significant aspects the insurer's promise to you as insured are hidden in fine print you can have an incentive the next time to identify and exploit loopholes. Spelling out in the finest detail the "letter of the law" can thus sometimes paradoxically increase rather than decrease moral hazard as well as other activities that are contrary to the idea of insurance.

To paraphrase Pogge, have we organized insurance in a way that reflects, and helps effectively to achieve, what by its own lights matter? Insurance is a social institution where the purpose is that the participants provide for one another in the event of accident and misfortune. Fine print policies seem to have the unfortunate side effect that they blur the content of the promise from the insurer to the insured. One understandable customer response can be to adapt to the fine print game, by adopting a loophole mentality, where you live by the letter of the policy, but don't hesitate to exploit loopholes.

C. Moral Neutralization

The concept of moral neutralization is used within moral psychology and sociology to account for the mindset of people who behave in ways which contradict their moral beliefs and attitudes. How do they rationalize with the gap between conduct and attitude? A recent study uses the concept to capture three different approaches to neutralization techniques (Ribeaud and Eisner, 2010). The general research question uniting these approaches is: "Through which cognitive processes can an individual who is generally rule-abiding and compliant with moral standards minimize cognitive dissonance, threats to self-concept, and experiences of moral self-sanction when he or she transgresses those standards?" (Ribeaud and Eisner, 2010, p. 300).

Moral neutralization is a commonly used concept within theoretical criminology, in explorations of the conduct and attitudes of delinquents. It can also be applied in other settings, where the distance between what people believe is right and what they actually do is under scrutiny. Brinkmann has suggested how the concept can be used to discuss the general issue of insurance customer dishonesty (Brinkmann, 2005), or processes where the insured is caught in the contradiction “between knowing what is right and doing what one knows is wrong.” (p. 186). Here it will be applied more specifically to insured’s experiences of blurred promises from insurers, through the use of the five classical neutralization techniques identified by Sykes and Matza (1957, pp. 666-667).

In the figure below, the techniques are placed in the left hand column, and possible responses to fine print policies and blurred promises from the insurer in the right hand column.

NEUTRALIZATION TECHNIQUE	EXAMPLE
Appeal to higher loyalties	I care more for my family than for the insurer who creates false impressions of security by hiding the details of its promises in inaccessible fine print.
Denial of responsibility	It is the insurer who is the powerful part and dictates the premises in our relation. I am provoked into false reporting about losses.
Denial of injury	My underreporting is not really harmful to the insurer. Fine print policies take care of their estimated losses anyway.
Denial of victim	It might be wrong of me to underreport, but the insurer deserves to be treated in that manner, given the nontransparent nature of the policy.
Condemning of condemner	It is the insurer who is the hypocritical part in this relation, by making blurred promises to me and other customers.

These illustrations show that the insurers’ practice of formulating their promises to the insured in fine print can provide the latter with material for justifying their own dishonesty.

In Brinkmann’s discussion of moral neutralization in insurance, he considers it to be an element in “ex post rationalizations” (ibid., p. 186). The insured looks back on his act of dishonesty, and explains to himself and others how it came to be that a normally honest

person like himself was dishonest in this particular instance. In other studies, moral neutralization is primarily seen as part of an *ex ante* consideration. Bandura et al. (1996, p. 365). claim that “people do not ordinarily engage in reprehensible conduct until they have justified to themselves the rightness of their actions”. According to this view, moral neutralization should be understood as a mechanism that precedes immoral conduct, and is part of why it occurs in the first place. In order to make false claims to the insurer, the insured may already be convinced that he is somehow in the right when he lies about the nature of his loss.

4. What can the insurance industry do to avoid the negative ethical consequences of fine print policies?

Insurance policies are expressions of promises made by the insurer to the insured. When the content of the promises is blurred, it can create uncertainty about the extent to which the insured is adequately covered. It can also shake the trust element in the relation between the insurer and the insured. It has been argued here that blurred promises can cause (1) erosion of the moral opportunity dimension of insurance, (2) development of a loophole mentality among the insured, and (3) provide material for the application of moral neutralization techniques.

What can the insurance industry do to counter these developments? The most obvious move can be to adopt plain language in the drafting of policies, rather than legalistic fine print language. As we have seen, promising consists in saying “I will do *a*, trust me”. In plain language it will be possible to determine (1) under which circumstances the promise comes into effect, and (2) what the promisor will actually do under those circumstances.

Plain language is in itself a vague term. In order to provide it with more specific content, we can look to a recently passed Colorado Law concerning plain language in insurance. Section 51 to Article V of the Colorado Constitution states that:

Plain language means language that is worded with simplicity and clarity, and that the average person graduating from the public high schools of the state can read and understand without confusion or doubt about the correct meaning.

A law, rule or regulation is expressed entirely in plain language only if each one of its provisions is individually expressed entirely in plain language.

Any cross references is not plain language unless it is accompanied by plain language that briefly, accurately, completely and clearly describes the substance of the item to which reference is made.

Any word or phrase that has a defined meaning is not plain language unless the defined meaning, wherever given, is expressed entirely in plain language.

Any person subject to a law, rule or regulation that is not expressed entirely in plain language may bring and try a suit in the district court of any county of any judicial district of the state to enforce this section. A person who prevails in such a suit is entitled to an award of costs and reasonable attorney fees to be paid by the state.

By adopting a plain language program for the drafting of insurance policies, the insurer can be on the way towards contributing to a better ethical climate in relation to the insured.

Companies can turn to Wollner's work (2010) on the use of plain language for guidance on how to express insurance conditions clearly and succinctly.

The insurance industry is coming under pressure to adopt plain language in its communication with customers. A similar tendency can be seen in other areas dominated by expert jargon.

Academics and experts in various fields are challenged to show more concern for the ordinary person, by expressing themselves in ways that are more generally accessible and less reliant upon specialized concepts and phrases. This extends to the writing of academic papers such as the current one. It should be readable not only to fellow academics and experts in ethics and insurance, but also to practitioners in the field of insurance and informed laypeople interested in the subject.

Conclusion

The purpose of this paper has been to clarify conceptual issues regarding the ethical consequences of fine print policies in insurance. Like Brinkmann and Lesch (see this volume), I see the need for a "new paradigm for consumer-insurer relationships", one characterized by improved trust and shared responsibility between insurer and insured. The conceptual framework for such a paradigm needs to take into account the insurer's role as promisor, and

the insured's role as promisee. Trust is at the heart of any such relationship. Insurers can take steps to improve and strengthen trust, by drafting insurance policies that are understandable to the people who turn to them for assistance in facing risk and uncertainty. Socially effective insurance enables individuals and organizations to take reasonable risks, without putting their own stability and existence on the line. The institution of insurance depends on a trusting relationship between the insurer and the insured. It is hard to interpret current fine print policies as expressions of trust. The industry thus has good reasons to steer the tradition for drafting insurance policies away from the dominant legalistic paradigm, in direction of plain language.

It is not only in insurance that specialized jargon and legalistic language dominates the interactions between organizations and individuals. The same tendency can be found in a many other areas of society. Relations between providers and customers of a wide range of products and services have become strictly regulated. It has created an environment where parents turn up at school meetings with a lawyer, to raise issues about their children's rights to proper teaching and facilities. The framework for social interaction is manifested in detailed rules and regulations which can only be properly understood by professionals. Lawyers are thus in high demand, but the scope for using and trusting personal judgment and common sense is dramatically restricted.

Insurance, then, is only one instance where a critical assessment of the effects of fine print regulations is in place. The current discussion has proceeded through a four-step analysis of the issue at hand:

1. Sources	2. Immediate consequences	3. Ethical consequences	4. Remedies
Why have insurance policies become complex fine print documents?	How can fine print policies affect the insured's understanding of the insurer's promise?	How can blurred promises affect the ethical relation between insurer and insured?	What can the insurance industry do to avoid the negative ethical consequences of fine print policies?
Linguistic reasons Protective reasons Concern with moral hazard	It is difficult for the insured to determine the concrete content of the insurer's promise. He may be underinsured, properly insured or	Blurred promises can lead to: A. Erosion of moral opportunity	The insurers can establish better ethical relations with the insured by applying plain language in the

	overinsured	B. Loophole morality C. Moral neutralization	drafting of policies
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This conceptual framework can be applied in dialogues to encourage shared responsibility and improved trust in the relation between the insurer and the insured. Its main focus is on how the insurance industry contributes to negative ethical consequences and how it can take steps to improve relations with its customers, but the concepts and ideas can also be used to give an account of customer responsibilities.

Attention to blurred promises and their ethical consequences in insurance can help to shed light on the general question posed by Brinkmann (2005, p. 192), of whether the insurance companies get the customers they deserve, and vice versa. Insurance companies tend to underestimate the discontent caused by fine print policies, and the effects a practice of this kind can have on the customers. By not attending properly to these effects, the industry is to a considerable extent responsible for the customers they get. This is not to deny that the customers have a responsibility to behave as good citizens, and not to undermine the institution of insurance through cheating behaviour. Fine print policies can provide incentives to look for loopholes and for unethical customer conduct of other kinds, while such conduct on the other hand gives the insurance companies reason to make their policies even more detailed and complex, to protect themselves, the honest customers and the insurance institution as such. It is in the interest of all stakeholders to get out of this negative spiral, and the insurance industry has good reasons to make the first moves away from it.

Some insurance companies are beginning to take the negative effects of fine print policies seriously. In Norway one of the main insurance companies – Gjensidige – has started a process of rewriting and restructuring their policies in order to meet the customers' demand for plain language. Their competitors are awaiting the outcome of this experiment before they decide whether to take similar steps. The initiative to simplify the policies is seen as a risky business enterprise. It makes the company more vulnerable to clever customers who – with or without legal aide – can find loopholes in the new policies. They leave more room for interpretation and reflection, and may thus offer less protection from misuse. It is nevertheless initiatives like this that can pave the way for shared responsibility and improved trust in the relation between insurers and insured. Gjensidige's act of applying plain language in their

insurance policies can be interpreted as an expression of customer trust. It remains to be seen whether the company will be economically and ethically rewarded or punished for it. The outcomes of this particular initiative and similar ones in other countries will affect the development of the insurer – insured relation, hopefully in a direction where it will be characterized by a greater degree of trust and shared responsibility than is the case at present.

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